

August 8, 1946

Arizona State Board of Optometry
32 South Stone Avenue
Tucson, A r i z o n a

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ARIZONA ATTORNEY GENERAL

Att: Mr. G. W. Patterson

Dear Sirs:

We have your communication of May 14, 1946, asking our opinion on the following:

"The examining Board of Optometry would like an opinion from you on the following question: Section 67-1401, 1939 R.C.A., finds optometry to be--

'The practice of optometry is the employment of any objective or subjective means or methods, other than the use of drugs, to determine the refractive powers of the human eye, or any visual or muscular anomalies thereof, and the prescribing or adapting of lenses or prisms for its correction or relief. . . .'

Several members of the optometry profession desire to prescribe and fit 'contact' lenses. Is the above statute broad enough to permit us to prescribe and fit 'contact' lenses? Contact lenses are used in lieu of ordinary lenses for the correction of visual defects, but are worn 'under the eyelids and in direct contact with the forward part of the eyeball, touching the sclera surrounding the cornea with the corneal area of the lens usually not in contact with the surface of the eyeball,' as will more particularly appear from an opinion written by the Attorney General of the State of Illinois, interpreting an Illinois statute similar to the above-mentioned one that we have in Arizona.

Also, would you please advise our Board whether or not a dispensing optician who does not have an optometrist's license nor a medical certificate to practice his profession, may engage in the above type of work without violating the present statute?

I have enclosed also herein, an opinion by the Attorney General in the State of California, interpreting a similar statute. Both of said opinions I enclose for your consideration and which I thought may be of some assistance to your office, in that the two statutes upon which the opinions were based are

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practically identical to Section 67-1401, 1939, R.C.A. When you are finished with said opinions, will you be so kind as to return to my office at the above address.

Thanking you for giving this matter your prompt attention, I am,"

Sec. 67-1403, Cumulative Pocket Supplement, A.C.A. 1939, provides:

"67-1403. PENALTY.--Any person who practices or attempts to practice optometry, without at the time having a valid recorded certificate of registration therefor, or who files or attempts to file for record a certificate issued to another, claiming to be the person entitled thereto, is guilty of a misdemeanor, etc."

In Sec. 67-1401, A.C.A. 1939, optometry is defined as follows:

"The practice of optometry is the employment of any objective or subjective means or methods, other than the use of drugs, to determine the refractive powers of the human eye, or any visual or muscular anomalies thereof, and the prescribing or adapting of lenses or prisms for its correction or relief." * * * * *

Courts in other states interpreting the statute very similar to ours have defined "optometry" to be:

"'Optometry' is measurement of range of vision, especially by means of optometer; the employment of subjective and objective mechanical means to determine the accommodative and refractive states of the eye and the scope of its functions in general; the employment of any means, other than the use of drugs, for the measurement of the powers of vision and adaptation of lenses for the aid thereof."

117 N.E. 195, 280 111. 18, 174 Atlantic 353.

From the definition of optometry given by our statute and the definition as given to optometry by other state courts, it is our opinion that the definition of optometry in our statute is broad enough to include every measurement of the powers of vision, and fitting contact lenses to the aid thereof, provided that no drugs whatever are used while examination is made to ascertain whether or not there are any defects that can be corrected by the application of lenses.

Answering your second question, it is our view that there is a distinction between "optometrist" and "optician".

An optician has been defined by several courts of the United States as a person who confines himself entirely to the work of making lenses in accordance with the prescriptions given by physicians or oculists. An optometrist has been defined to be one who

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manufactures lenses, either according to his own judgment or the prescription of a physician, and one also who examines the eyes to ascertain whether or not there are any such defects visible as can be corrected by the application of lenses.

It is therefore our opinion that a dispensing optician cannot, under our statute, engage in the same type of work as a licensed optometrist.

Trusting the above answers your questions satisfactorily, we are

Respectfully,

JOHN L. SULLIVAN
Attorney General

MAURICE BARTH
Assistant Attorney
General

LB:jm